

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

<b>In re:</b>  <b>SCOTT VINCENT VAN DYKE</b>  <b>Debtor.</b>	§ § § § §	<b>Chapter 11 (Subchapter V)</b>  <b>Case No.: 21-60052</b>
--	-----------------------	---

**SECOND EMERGENCY MOTION OF EVA ENGELHART, AS CHAPTER 7  
TRUSTEE OF THE ESTATE OF ANGLO-DUTCH PETROLEUM  
INTERNATIONAL, INC., LITTMILL LIMITED, PROSPERITY  
SETTLEMENT FUNDING, INC., ANDREA LORE, INDIVIDUALLY AND IN  
HER CAPACITIES AS CO-EXECUTOR OF THE ESTATE OF ROBERT M.  
PRESS, DECEASED AND AS CO-TRUSTEE OF THE LORRAINE PRESS  
SUPPLEMENTAL CARE TRUST AND ANZAR SETTLEMENT FUNDING  
CORP. TO COMPEL DEPOSITIONS**

**This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.**

**Represented parties should act through their attorney.**

**Emergency relief has been requested. If the Court considers the motion on an emergency basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency consideration is not warranted, you should file an immediate response.**

**Relief is requested not later than January 7, 2022.**

Eva Engelhart (“Engelhart”), as Chapter 7 Trustee of the estate of Anglo-Dutch Petroleum International, Inc. (“ADPI”), on the one hand, and Littmill Limited,

Prosperity Settlement Funding, Inc., Andrea Lore, Individually and In Her Capacities As Co-Executor of the Estate of Robert M. Press, Deceased and As Co-Trustee of the Lorraine Press Supplemental Care Trust and Anzar Settlement Funding Corp. (“Investors,” and together with Engelhart, the “Objectors”), on the other hand, files this Second Emergency Motion to Compel Depositions, and would respectfully show the Court the following:

1. In his deposition, Debtor Scott Van Dyke disclosed that Mr. Harry McMahon, III was involved in the analysis of the Adams Prospect, a significant piece of the bankruptcy plan. [Docket No. 88-3 at 54:22-55:2, 142:13-18, 147:1-21, 149:11-22]. Debtor also disclosed that Ms. Francene Barber-Buchanan was knowledgeable about Debtor’s recently deceased mother’s estate and Debtor’s financials. [Docket No. 88-3 at 30:9-31:1, 31:17-32:15, 175:20-176:8, 250:6-19, 256:20-257:4]. Both Mr. McMahon and Ms. Barber-Buchanan work for Debtor’s new company, Texas Petroleum Operations, LLC. [Docket No. 88-3 at 120:22-25].

2. The Court held an Emergency Status Conference on December 14, 2021, wherein the Court heard Engelhart’s Emergency Motion for Continuance (Docket No. 94) and instructed that it was moving the plan confirmation hearing, which is now set for January 31, 2022 (Docket No. 101).

3. On December 14, Engelhart wrote to Debtor’s counsel seeking dates of availability for the depositions of Mr. McMahon, Ms. Barber-Buchanan, and Debtor. Engelhart followed up with additional letters on December 16 and 17. No dates were provided.

4. On December 17, Engelhart served deposition notices, seeking to depose Ms. Barber-Buchanan on January 5, Mr. McMahon on January 7, and Debtor on January 12. [Exhibits 2-4].

5. On December 22, this Court held an Emergency Hearing concerning, in part, Debtor's refusal to confirm or provide alternative dates for the depositions. Debtor did not object to the depositions.

6. At the conclusion of the hearing, the Court Ordered Mr. Van Dyke to appear for deposition at the offices of Hagans Montgomery Hagans on January 12, 2022, at 9:30 a.m. The Court also ordered the depositions of Ms. Barber-Buchanan and Mr. McMahon to be completed by January 14, 2022.

7. During the hearing, Debtor's counsel told the Court that they were working with Ms. Barber-Buchanan and Mr. McMahon to get dates of availability, and that they should be able to provide dates to Engelhart early in the week of December 27, 2021.

8. On December 28, Engelhart wrote to Debtor's counsel to inquire about the dates of availability.

9. Having received no response, Engelhart wrote again to inquire about dates on January 3, 2022. Engelhart also stated her intent to proceed with the depositions as noticed on January 5 and January 7. Debtor's counsel responded that they had "not heard back regarding their availability but [] will follow up again."

10. On the afternoon of January 4, Engelhart sought confirmation that Ms. Barber-Buchanan's deposition would proceed the following morning. Debtor's counsel responded that Mr. Van Dyke tested positive for COVID, that Ms. Barber-Buchanan and

Mr. McMahon were exposed, and that the depositions would need to be rescheduled for the following week. Engelhart asked for dates of availability. Debtor's counsel said it would be provided as soon as possible. No information was provided.

11. On the evening of January 5, Engelhart wrote to Debtor's counsel, seeking confirmation that Ms. Barber-Buchanan's and Mr. McMahon's depositions could proceed on January 10 and 13, respectively. Engelhart instructed Debtor's counsel that if no confirmations or alternative dates were provided by the afternoon of January 6, Engelhart would be forced to file this motion.

12. On January 6, Engelhart spoke with Debtor's counsel about the depositions and this motion. No confirmations or alternative dates were provided.

#### **Need for Judicial Intervention**

13. As noted above, efforts to resolve these issues with Debtor have failed.

14. Because of the January 14 deadline to complete these depositions, Engelhart asks this Court to compel the depositions of Ms. Barber-Buchanan and Mr. McMahon on January 10 and 13, respectively, at 9:30 a.m. at the offices of Hagans Montgomery Hagans.

15. This motion to compel needs to be resolved by January 7, 2022, as the current deadline necessitates that the depositions be completed next week and Engelhart needs to coordinate with the other creditors, a court reporter, and a videographer on logistics for the depositions.

16. Based upon the foregoing, Engelhart respectfully requests that the Court grant the motion to compel and order Ms. Barber-Buchanan and Mr. McMahon to appear

for depositions on January 10 and 13, respectively.

Respectfully submitted,

HAGANS MONTGOMERY HAGANS

/s/ William Fred Hagans

William Fred Hagans

Texas State Bar No. 08685500

fhagans@hagans.law

Carl D. Kulhanek, Jr.

Texas State Bar No. 11761850

ckulhanek@hagans.law

3200 Travis, Fourth Floor

Houston, Texas 77006

Telephone: 713-222-2700

Facsimile: 713-547-4950

- and -

NORTON ROSE FULBRIGHT US LLP

William R. Greendyke (SBT 08390450)

Julie Goodrich Harrison (SBT 20492434)

1301 McKinney Street, Suite 5100

Houston, Texas 77010-3095

Telephone: (713) 651-5151

Facsimile: (713) 651-5246

william.greendyke@nortonrosefulbright.com

julie.harrison@nortonrosefulbright.com

*ATTORNEYS FOR EVA ENGELHART, AS  
CHAPTER 7 TRUSTEE OF THE ESTATE OF  
ANGLO-DUTCH PETROLEUM  
INTERNATIONAL, INC.*

CERTIFICATE OF CONFERENCE

On January 6, 2022, I corresponded with counsel for Debtor regarding this motion to compel. Counsel for Debtor responded that they still did not have dates of availability for the witnesses.

/s/ William Fred Hagans

William Fred Hagans

CERTIFICATE OF ACCURACY

The undersigned attorney certifies that the facts on which this request for emergency hearing are based are accurate.

/s/ William Fred Hagans

William Fred Hagans

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2022, a true and correct copy of the foregoing Notice was served upon the counsel and parties of record electronically through the Bankruptcy Court's Electronic Case Filing System on those parties that have consented to such service.

/s/ Julie Harrison

Julie Harrison